

IN THE CHANCERY COURT FOR ROBERTSON COUNTY, TENNESSEE

SHAWN TAYLOR, BRIAN MORRIS,
and DON AZBILL,
Plaintiffs,

v.

CITY OF RIDGETOP, TENNESSEE,
Defendant.

Case No. CH19-CV-273

Jury Demanded

FILED
CLERK & MASTER ROBERTSON CO. TN

JUN 14 2019
AT 4:20 O'CLOCK P.M.
ROSEMARY SPRAGUE
BY JS

MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Tenn. R. Civ. P. 65.03, Plaintiffs, Shawn Taylor, Brian Morris, and Don Azbill, move this Court for entry of a Temporary Restraining Order against the Defendant City of Ridgetop, restraining and enjoining them from taking any further action to sell off the assets of Ridgetop Police Department, destroy evidence stored at the Police Department, or to otherwise disband the Ridgetop Police Department unless and until the City does so by providing proper notice according to the Ridgetop Charter and its Code of Ordinances. A proposed Order is attached hereto.

Plaintiffs' motion is made and based on the facts specified in the Verified Complaint, the declaration of Shawn Taylor, and Request for Injunctive Relief, filed simultaneously with this motion. The allegations demonstrate that Ridgetop Mayor Tony Reasoner, Vice Mayor McCaw Johnson, and Alderman Mark Johnson have dissolved the Police Department in retaliation for police officers performing their duties, which poses a substantial threat of immediate and irreparable harm to the public, pending criminal investigations, police department assets, and the Plaintiffs professions.

For the reasons set forth in more detail herein, Plaintiffs request that this Honorable Court grant this temporary injunction and that the matter be set for hearing upon Plaintiffs' Application

for Preliminary Injunction, and that the hearing be advanced and consolidated with a trial on the merits.

ARGUMENT

The following four factor test is utilized by courts when issuing temporary injunctions: 1) the irreparable harm to the plaintiff if the injunction is not granted; 2) the balance between the harm and the harm to the defendant if it is granted; 3) the probability the plaintiff will succeed on the merits of the case; and 4) the public's interest one way or the other. *See, e.g., Denver Area Meat Cutters & Empls. Pension Plan v. Clayton*, 120 S.W.3d 841, 857(Tenn. Ct. App. 2003)(other citations omitted).

The Irreparable Harm to Plaintiffs Substantially Outweighs Any Harm To The Defendant.

Here the balance of harms weighs heavily in favor of Plaintiffs. The immediate and irreparable harms in this case centers around an illegally called "special meeting" the purpose of which was to dissolve the Police Department in retaliation for conducting an investigation of the Mayor and other City Officials responsible for implementing the illegal ticket quota, and for other possible criminal activity.

The immediate and irreparable harms, include, but are not limited to:

1. Immediate and irreparable harm to the citizens, residents, and visitors in Ridgetop, Tennessee who have been deprived of the benefits and protection of their Police Department. Plaintiffs are aware of at least one domestic violence incident in which police officers were requested, but nobody responded to the call.
2. Immediate and irreparable harm to all criminal prosecutions originating from the Ridgetop Police Department due to the City's improper, unauthorized handling of evidence, investigative files, and other items which could break the chain of custody of the evidence,

which is critical for prosecutors to obtain a conviction beyond a reasonable doubt and jeopardizes the rights of victims of crimes, and defendants which may have used the evidence to exonerate themselves;

3. Immediate and irreparable harm to the Plaintiffs and the Police Department due to the City's disposal of assets needed for officers to perform their duties, including the sale of patrol vehicles, police equipment, weapons, duty belts, and all other items needed to investigate crimes and make arrests;
4. Immediate and irreparable harm to the Plaintiffs due to the City's improper handling of Police Department equipment, files, and documents, including LESO equipment that can only be accessed or possessed by law enforcement officials, as well as highly confidential and sensitive CJIS files;
5. Immediate and irreparable harm to the Ridgetop Police Department's ongoing investigation into the unlawful conduct of the Mayor, the Board of Aldermen, and other City Officials;
6. Immediate and irreparable harm to the Plaintiffs who have been unlawfully terminated by virtue of the City shutting down the Police Department. An award of back pay will not fully compensate plaintiffs. Professional pride, standing in professional organizations, and professional opportunity that comes with employment in a unique position all constitute injuries that cannot be compensated by monetary damages. *See Becton v. Thomas*, 48 F.Supp.2d 747, 762 (W.D. Tenn. 1999).

There is no harm to the Defendant City of Ridgetop if the temporary restraining order issues. The Mayor and Board of Alderman's unlawful actions were done in retaliation for policies officers performing their duties, the meeting disbanding the Police Department was illegal, and the

consequences of the Defendant's misconduct is injuries to the public. Enjoining the City's conduct will benefit, not harm, the City of Ridgetop.

Probability of Success on the Merits.

There is a high probability of Plaintiffs' success on the merits of this action.

It is the express purpose of Tennessee's Open Meetings Act, codified at T.C.A. § 8-44-101 through 8-44-108, that "the formation of public policy and decisions is public business and shall not be conducted in secret." T.C.A. § 8-44-101. Section 102(a) provides: "All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of the Tennessee."

It is apparent that members of the Board of Aldermen met in advance and decided to close the police department outside the Sunshine. They hired a locksmith in advance of the meeting and the locks were changed before their vote was cast.

No advance notice of the special meeting was posted and no agenda or description of its purpose was listed. The citizens of Ridgetop could not have been sufficiently apprised of the purpose of the special meeting and had no notice that the City would dissolve their police department and deprive them of the protections they had previously enjoyed.

No minutes of the meeting have been posted to the Ridgetop website. Because minutes are typically posted the following day, it appears that none were taken.

By virtue of the foregoing, the Plaintiffs have clearly demonstrated that the June 10, 2019 Meeting was held in violation of the Open Meetings Act, and should be declared void.

The Public's Interest.

The public's interest weighs heavily in favor of the grant of a temporary restraining order. It is in the public's interest that this Court protect the Plaintiffs and citizens of Ridgetop by ensuring

that public meetings comply with the Open Meetings Act, by declaring void any actions taken in violation of the Act, and by ensuring their rights by allowing them to have proper notice of meetings that involve disbanding or dissolving their police department, which is a matter of critical public importance.

The unlawful actions of the Ridgetop Mayor and Aldermen jeopardize all criminal cases originating from the Ridgetop Police Department, which places criminal prosecutions that are currently pending in Robertson County in substantial risk of dismissal due to the Mayor and Board of Aldermen tainting evidence stored at the Police Department. It is in the interest of the public to enjoin and restrain the City's feckless conduct.

Because of the nature of this case and the public importance that is implicated herein, and the gravity of the Defendant's conduct, Plaintiffs propose that a bond of \$50.00 is sufficient.

WHEREFORE, Plaintiffs respectfully pray that this Court grant Plaintiffs' Motion for a Temporary Restraining Order as follows:

1. Enjoining and restraining the Defendant from restricting or preventing Plaintiffs and other Ridgetop Police Officers from access to the Police Department, their offices, their computers, files, badges, weapons, and any other items maintained or stored by police officers at the Police Department;
2. Enjoining and restraining the Defendant from destroying or otherwise disposing of any files kept at the Police Department, including investigative files, CJIS files, LESO files and equipment, and any other documents created, maintained, or stored by police officers at the Police Department;
3. Enjoining and restraining the Defendant from restricting or preventing Plaintiffs and other Ridgetop Police Officers from performing their duties as police officers,

including patrolling the streets of Ridgetop, responding to calls for service, conducting investigations, and making arrests;

4. Enjoining and restraining the Defendant from destroying, selling, or disposing of any assets utilized by the Police Department in carrying out their duties, including the sale of patrol vehicles, duty belts, radios, and all other items;
5. Enjoining and restraining the Defendant from obstructing or interfering in any and all Ridgetop Police Department investigations;
6. Enjoining and restraining the Mayor, Vice Mayor, and any Alderman from holding secret meetings, deliberating in secret, and voting in secret on any public matter that must be open to the public pursuant to the Open Meetings Act;
7. Enjoining and Restraining the City Recorder from concealing the purpose of meetings or special meetings of the Board of the Mayor and Aldermen by failing to include the agenda or describing the purpose of the meeting;

Plaintiffs further request that this Court set this matter for a hearing for a preliminary injunction pursuant to T.R.C.P. 65.04 and that the hearing be advanced and consolidated with a trial on the merits regarding violations of the Open Meetings alleged in Count I in the Verified Complaint pursuant to T.R.C.P. 65.04(7).

A proposed Order is attached hereto.

ON JUNE 14, 2019 COUNSEL FOR PLAINTIFFS NOTIFIED ATTORNEY RUSSELL FREEMAN, COUNSEL FOR THE DEFENDANT CITY OF RIDGETOP, THAT THIS LAWSUIT WAS FORTHCOMING AND THAT THIS MOTION FOR TEMPORARY RESTRAINING ORDER WOULD BE FILED. COUNSEL HAS EMAILED A COPY OF THE PLEADINGS AND THIS MOTION IN ADVANCE OF FILING.

Respectfully submitted,

THE BLACKBURN FIRM, PLLC



W. Gary Blackburn (#3484)

Bryant Kroll (#33394)

213 Fifth Ave N. Suite 300

Nashville, TN 37219

Telephone: (615) 254-7770

Fax: (866) 895-7272

gblackburn@wgaryblackburn.com

bkroll@wgaryblackburn.com

Attorneys for Plaintiffs